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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/580,412    05/30/00    JENKINS

H    7947

EXAMINER
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QM12/0802

WOODLING, KROST AND RUST  
9213 CHILLICOTHE ROAD  
KIRTLAND OH 44094

FLORES SANCHEZ, B	
ART UNIT	PAPER NUMBER

3724  
DATE MAILED:

08/02/01

5

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/580,412

Applicant(s)

JENKINS, HENRY H.

Examiner

Omar Flores-Sánchez

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

1. This action is in response to applicant's amendment received on 5/23/01.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brayton et al. in view of A. Dewes.

Brayton discloses (Fig. 2-4) the invention substantially as claimed including a bottom board 21b, cavity board 20, a metal plate 45, a top board 21a, a plurality of rule slots 23, a steel rule 12, a cutting edge is defined by a generally triangular shape configuration and a bottom portion. Brayton doesn't show each steel rule having a first and second end portion extending at approximately a 45° angle. However, Dewes teaches the use of steel rule having a first and second end portion extending at approximately a 45° angle for the purpose of cutting the extremities of the collar-blank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brayton's die by providing the steel rule having a first and second end portion extending at approximately a 45° angle as taught by Dewes in order

to obtain an angle cut. Regarding to each steel rule with the same characteristic, it would have been obvious to one of having ordinary skill in the art at the time the invention was made to modified Brayton's steel rules by providing each steel rules having and first and second end portion extending at approximately a 45° angle as taught by Dewes, science it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brayton et al. in view of Johnson.

Brayton discloses the invention substantially as claimed except for a generally cylindrical ejection rubber. However, Johnson teaches the use of ejection rubber for the purpose of removing the material out of the die. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brayton's die by providing ejection rubbers as taught by Johnson in order to remove the material out of the die.

Regarding to the cylindrical shape, it would have been an obvious matter of design choice to modify the Johnson reference by having a cylindrical ejection rubber, since applicant has not disclosed that a cylindrical ejection rubber solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Johnson's ejection rubber.

Art Unit: 3724

5. Claims 7-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson.

Johnson discloses (Fig. 5-19) the invention including a metal plate (see Fig. 16), a top board 3, a plurality of rule slots 27, a steel rule/metal member 4, a cutting edge is defined by a generally triangular shape configuration, a bottom portion and first and second end portion extending at approximately a 45° angle 9-10, a first direction and a second direction. Johnson doesn't show each steel rules having and first and second end portion extending at approximately a 45° angle. It would have been obvious to one of having ordinary skill in the art at the time the invention was made to modified Johnson's steel rules by providing each steel rules having and first and second end portion extending at approximately a 45° angle, science it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. R. Butterworth and Hartzell are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is (703) 308-0167. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

ofs  
July 28, 2001

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

**Rinaldi I. Rada**  
**Supervisory Patent Examiner**  
Group 3700